

BEFORE THE
FEDERAL ELECTION COMMISSION

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COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 AUG 27 A 10:46

Campaign Legal Center
1640 Rhode Island Ave. NW, Suite 650
Washington, DC 20036
202-736-2200

v.

MUR No. 5523

Plumbers and Gasfitters Local 12
1240 Mass. Ave.
Boston, MA 02125

2004 AUG 27 A 10:37

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COMPLAINT

1. This complaint alleges a violation of the federal campaign finance laws by the Plumbers and Gasfitters Union Local 12.

2. The Plumbers and Gasfitters Union Local 12 (hereafter "Union Respondent") is a labor organization. As more fully explained below, Union Respondent has violated federal campaign finance laws by endorsing and expressly advocating the election of a federal candidate (*i.e.*, John F. Kerry) beyond the restricted class of its membership and to the general public.

3. The home page of the Union Respondent is www.plumbersandgasfitterslocal12.org¹

4. On Union Respondent's website's home page, Union Respondent has placed a picture of a campaign sticker at the top that states that "UA Plumbers & Gas Fitters Local 12 Support John Kerry for President". The campaign sticker also has a link to the website of federal candidate John Kerry: www.johnkerry.com. Federal candidate Kerry

¹ We have attached a printed copy of Union Respondent's homepage as Exhibit 1.

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is pictured on the Union Respondent's homepage with political signs in the background of the photo showing Union Respondent's support and endorsement of candidate Kerry.

I. The Endorsement and Express Advocacy On Behalf Of Federal Candidate John Kerry By Union Respondent Plainly Violates Campaign Finance Laws

5. A union may spend treasury funds on partisan communications directed to its own members. Ordinarily, these communications would consist of a union's messages to its members, including messages regarding endorsement of a federal candidate or urging the election or defeat of a federal candidate. However, a union is not permitted to endorse a federal candidate to the general public, except by means of a public announcement that an endorsement has been made and the reasons for it through a press release or press conference distributed only to the organization's usual media contacts.

See 11 C.F.R. §114(c)(6)(i).

6. A union is also not permitted to make express advocacy communications relating to a federal candidate to the general public. 2 U.S.C. §441b. This includes making such statements through the Union's website. As explained by the FEC in Advisory Opinion 1997-16:

The [Federal Elections Campaign] Act prohibits corporations [or any labor organization] from making any contribution or expenditure in connection with Federal elections. 2 U.S.C. 441b. Contributions include direct or indirect payments or gifts of money or any services, or anything of value, to any candidate for Federal office. 2 U.S.C. 441b(b)(2); 11 CFR 114.1(a)(1). This general prohibition also has an exception that allows a corporation, including an incorporated membership organization, [or a labor organization] to communicate *with its "restricted class"* (its stockholders, executive and administrative personnel, and their families), *but not the general public*, on "any subject" including messages containing express advocacy of the election or defeat of Federal candidates. 2 U.S.C. 441b(b)(2)(A) and 11 CFR 114.1(j), 114.3(a). See also *United States v. United*

Auto Workers, 352 U.S. 567 (1957) and United States v. Congress of Industrial Organizations et al., 335 U.S. 106 (1948). For purposes of these communications, the restricted class of an incorporated membership organization also includes its membership. Id.

Communications containing express advocacy which may be made *to the restricted class* include, but are not limited to, publications. For example, printed material expressly advocating the election or defeat of one or more clearly identified candidate(s) or candidates of a clearly identified political party may be distributed by a corporation or by a labor organization to its restricted class provided that: (i) the material is produced at the expense of the corporation or labor organization; and (ii) the material constitutes a communication of the views of the corporation or the labor organization, and is not the republication or reproduction, in whole or in part, of any broadcast, transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committee, or their authorized agents. A corporation or labor organization may, under this section, use brief quotations from the speeches or other materials of a candidate that demonstrate the candidate's position as part of the corporation's or labor organization's expression of its own views. 11 CFR 114.3(c)(1)(i) and (ii).

* * *

...Because of the general availability of access to the Internet, *communication via a website would be considered a form of communication to the general public.* See Advisory Opinions 1996-16 and 1995-35.

FEC Advisory Opinion 1997-16, (emphasis added).

7. Union Respondent has not only placed its endorsement of a federal candidate on its website's homepage, it has also engaged in express advocacy on behalf of candidate Kerry by communicating to the general public that they should "Support John Kerry". In addition, Union Respondent has also posted on its website's homepage a statement that its union president "recently communicated directly to every member of

the United Association regarding the importance of electing a Democratic President.”

The announcement continues that “It is critically important to the future of organized labor that we defeat George W. Bush—the policies his Administration have promoted are an attack on all working men and women in this country.”

8. The Union Respondent’s homepage also requests financial contributions on behalf of federal candidate Kerry. Union Respondent’s homepage states: “We need your financial support to elect a Democratic President who will restore the respect for working people in our country.” The statement continues by urging readers to make a \$25 dollar donation to John F. Kerry for President Inc., 901 15th Street, NW, 7th Floor, Washington, DC 20005.”

9. The information referenced in paragraphs 7 and 8, above, is accessible by and available to members of the general public, and remains on the Union Respondent’s website as of this date.

10. The communication to the general public by Union Respondent of its endorsement of John Kerry for President was not limited to the restricted class (*i.e.*, its members) as required by law. See 11 CFR §114.3, *et seq.* Nor was the communication by Union Respondent of its endorsement of John Kerry limited in distribution to representatives of the news media that the union customarily contacts when making press announcements. See 11 CFR 114.4(c)(6). Consequently, Union Respondent has violated federal campaign finance laws by communicating its endorsement of federal candidate John Kerry to the general public on its union (not PAC) website.

11. Union Respondent also violated federal campaign finance laws by expressly advocating the election of John Kerry to federal office to the general public. Union

Respondent's home page is inundated with references to defeating candidate Bush, supporting candidate Kerry, "send[ing] President Bush back to Texas", and urging readers to write checks and mail them to the Kerry campaign.

12. While Union Respondent may make endorsements and engage in express advocacy to its members, it may not post such endorsements or engage in express advocacy on its general union website available to the public. Any member of the general public can log on to the website of the Union and view the endorsement and the express advocacy communication.

II. The Solicitation Of Funds By Union Respondents On Behalf Of The Federal Candidate Is A Clear Violation Of Campaign Finance Laws.

14. Union Respondent's communication posted on its website's homepage solicits contributions to federal candidate John Kerry. Union Respondent's website also provides a link to the John Kerry's webpage. A copy of this solicitation, printed off the website of Union Respondent, is included as part of Exhibit 1. The solicitation of funds states:

We need your financial support to elect a Democratic president who will restore respect for working people in our country. Please make a \$25 donation to:

John Kerry for President, Inc.

901 15th Street, NW

7th Floor

Washington D.C. 20005

15. Union Respondent, by posting this solicitation on its website and thereby communicating it to members of the general public, is soliciting contributions from the general public to a federal candidate, which is a clear violation of the law.

III. The Communication By Union Respondent Failed To Include The Required Disclaimers

16. In addition to this solicitation for a contribution to a federal candidate being impermissibly posted on their publicly accessible website, the solicitation failed to include any disclaimers whatsoever. See 11 CFR §110.11. The communication is clearly a solicitation of contributions from the general public to a federal candidate and requires such disclaimers—and the failure to include them constitutes a clear violation of the law.

Prayer for Relief

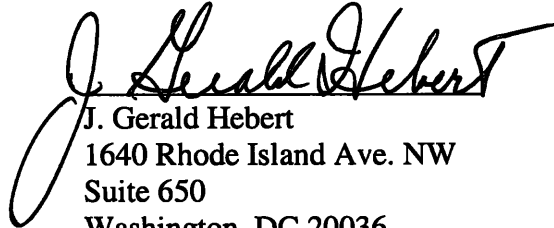
Wherefore, the Commission should conduct an immediate investigation under 2 U.S.C. §437g, and should: 1) determine that the Union Respondent has violated and continues to violate 2 U.S.C. §§ 441b(a), 441b(b), and 441d, as well as the implementing regulations promulgated by the Federal Election Commission and referenced herein; 2) impose appropriate sanctions for such violations; 3) enjoin Union Respondents from all such violations in the future; and 4) impose such additional remedies as are necessary and appropriate to ensure compliance with FECA and BCRA.

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Respectfully submitted,

The Campaign Legal Center,

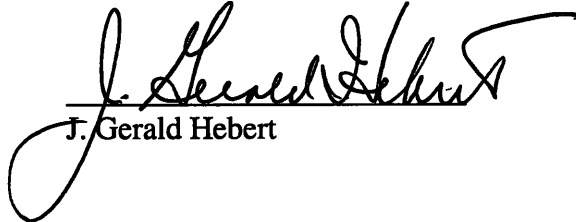

J. Gerald Hebert
1640 Rhode Island Ave. NW
Suite 650
Washington, DC 20036
202-736-2200

Verification

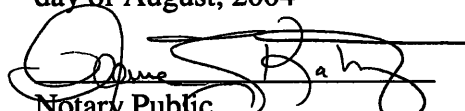
The complainant listed below hereby verifies that the statements made in the foregoing complaint are, upon information and belief, true.

Sworn to pursuant to 18 U.S.C. §1001.

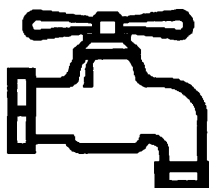
For Complainant Campaign Legal Center


J. Gerald Hebert

Sworn to and subscribed before me this 26th
day of August, 2004













Notary Public

JEANNE G. KATZ
Notary Public of District of Columbia
My Commission Expires December 14, 2007



Plumbers and Gasfitters Local 12

1240 Mass. Ave., Boston, MA 02125 -
(617) 288-6200

-  **Home**
-  **About Us**
-  **Officers and Staff**
-  **Political Endorsements**
-  **Why Join?**
-  **Training Center**
-  **Update Online**
(June 2004)
-  **Organizer Online**
(March 2004)
-  **Prevailing Wage**
-  **Contractors**
-  **Links**



Plumbers and Gasfitters Local 12

1240 Mass. Ave.
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Revised - June 2004

plumbersandgasfitterslocal12.org

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- **UA General President Martin J. Maddaloni** recently communicated directly to every member of the United Association regarding the importance of electing a Democratic President. He requested every member make a personal contribution to the Presidential Candidate John F. Kerry. It is critically important to the future of organized labor that we defeat George W. Bush – the policies his Administration have promoted are an attack on all working men and women in this country.
- **We need your financial support** to elect a Democratic President who will restore the respect for working people in our country.



Please make a \$25 donation to:

John F. Kerry for President, Inc.

901 15th Street, N.W.

7th Floor

Washington, DC 20005

CODE the check and envelope DM-UA, which allows the campaign to identify all contributions from UA members nationally. THANKS FOR YOUR SUPPORT! *It's critical that you contribute in this way. It's the only way the Kerry campaign can track contributions from union members.

We realize any money out of your pocket is a hardship, but George W. Bush is expected to raise and spend over \$200 million to maintain his failed leadership. His administration has been one long attack on the values working families have fought for and hold dear. See below for an eloquent explanation by Massachusetts Congressman William Delahunt of why we must send President Bush back to Texas.

- **A recent letter** I received from Massachusetts Congressman William D. Delahunt describes the Bush Administration Policies "Immediately after assuming the Presidency, George W. Bush issued Executive Orders prohibiting the use of Project Labor Agreements on public construction projects and abolishing labor-management partnerships in federal agencies. In its first year, the Administration intervened to block strikes at United and Northwest Airlines – then threatened more of the same at Delta and American. An airline bailout followed – but neglected to provide aid to displaced workers. By 2001, the very wealthiest Americans were benefiting from his massive \$1.35 trillion tax cut. Spending has skyrocketed on Bush's watch; but he's buying food, medicine and housing for Iraqi citizens, while American workers lose their pay, benefits and retirement security. He's cut overtime, reduced OSHA enforcement, and stubbornly refused to extend unemployment benefits. Even as an election

approaches, the disdain of this administration for working people knows no bounds: his Labor Secretary calls labor unions "corrupt," while his Education Secretary describes them as terrorist organizations."

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